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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/921,323

08/02/2001

Jay Darrell Gillespie

34423/237429

5051

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7590

05/04/2009

ALSTON & BIRD LLP

BANK OF AMERICA PLAZA

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CHARLOTTE, NC 28280-4000

EXAMINER

STEELE, JENNIFER A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

05/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09921323	8/2/2001	GILLESPIE ET AL.	34423/237429

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EXAMINER

JENNIFER STEELE

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20090428

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**Commissioner for Patents**

Appellants submitted an Appeal Brief on 3/4/2008 which inaccurately stated the claims upon Appeal were 1-10 and 29-30, however as claims 2 and 3 were cancelled claims, the claims upon Appeal should have been 1, 4-10 and 29-30.

Examiner's Answer of 5/22/2008, erroneously restated the Final Rejection of claims 1-10 and 29-30 instead of 1, 4-20 and 29-30. The 35 USC 103 rejection should be over claims 1, 4-10 and 29-30.

On, 1/21/2009, the BPAI returned the Appeal to the examiner stating that the claims listed by the Appellant were improperly listed as 1-10, 29 and 30.

On 1/27/2009, The Patent Appeal Center sent a letter to the Appellant requesting clarification of the rejection to be reviewed on appeal should list the same rejections as those set forth by the examiner.

Appellant's corrected Appeal Brief submitted 2/6/2009 has clarified the record that the claims on Appeal are 1, 4-10 and 29-30.

The Appellants did not argue the claims separately, therefore the Examiner Answer of 5/22/2008 is considered to be a proper response to the claims upon Appeal of 1, 4-10 and 29-30.

The case can be redocketed to the Board of Interferences and Appeals.

/Rena L. Dye/  
Supervisory Patent Examiner, Art Unit 1794